

REMARKS

In view of the amendments proposed above, Applicants respectfully request consideration of the following remarks.

Anticipation Rejections Under 35 U.S.C. § 102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Anticipation Rejection Based on United States Patent 6,047,317 to Bisdikian et al.

Claims 1-3, 7-10, and 15-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent 6,047,317 to Bisdikian et al. (hereinafter “Bisdikian”). Applicants respectfully traverse this rejection, as set forth below.

Independent claim 1, as amended, recites:

1. A carousel comprising:
a plurality of modules, each of the plurality of modules comprising one of a data module and an object module;
wherein each of the modules is represented in the carousel by a number of instances that is proportional to the module’s priority relative to all other modules in the carousel **and no module of the plurality of modules has successive instances positioned directly adjacent to one another in the carousel.**

Each of independent claims 7, 15, 20, 23, and 28 recites some limitations similar to those recited in claim 1.

In rejecting claim 1 (and the other independent claims), the Examiner relies, in part, upon FIG. 2a of Bisdikian and the accompanying text. In regards to FIG. 2a, the specification of Bisdikian states:

To reduce the waiting time for certain image frames that are more often accessed, e.g., directory frames, a plurality of copies of such an image frame are positioned in a carousel so as to reduce the user's waiting time. Such positioning is accomplished by assigning a priority value to each image frame or to just high usage image frames and, at the transmitter, inserting plural copies of the higher priority value image frame(s) into a carousel. A schematic picture of such a carousel is shown in FIG. 2a. Column 3, Line 63 through Column 4, Line 5.

In sum, Bisdikian simply discloses the insertion of plural copies of a higher priority image frame. Bisdikian says nothing regarding the order of modules in a carousel and, more specifically, this reference does not teach a carousel wherein no module has successive instances positioned directly adjacent to one another in the carousel. In contrast, claim 1 recites a carousel having a plurality of modules wherein “each of the modules is represented in the carousel by a number of instances that is proportional to the module's priority relative to all other modules in the carousel **and no module of the plurality of modules has successive instances positioned directly adjacent to one another in the carousel.**”

If it is being suggested that Bisdikian inherently teaches the claimed carousel, the Examiner is respectfully reminded that, when relying upon a theory of inherency, the

Examiner “**must** provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic **necessarily** flows from the teachings of the applied prior art.” M.P.E.P. §2112 (citing *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). The test of inherency is not satisfied by what a reference “may” teach. *In re Robertson*, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999); *SGS-Thomson Microelectronics, Inc. v. International Rectifier Corp.*, 32 U.S.P.Q.2d 1496, 1503 (Fed. Cir. 1994); *Continental Can Co. v. Monsanto Co.*, 20 U.S.P.Q.2d 1746, 1749-50 (Fed. Cir. 1991). Rather, evidence of inherency “**must make clear** that the missing descriptive matter is necessarily present in the thing described in the reference, **and** that it would be so recognized by persons of ordinary skill.” *Continental Can Co. v. Monsanto Co.*, 20 U.S.P.Q.2d at 1749 (emphasis added).

As Bisdikian fails to disclose at least the above-noted limitations of claim 1, 7, 15, 20, 23, and 28, each of these claims is novel in view of this reference. Further, those claims depending from each of these independent claims is allowable as depending from a novel independent claim.

CONCLUSION

Applicants submit that claims 1-3, 7-10, and 15-30 are in condition for allowance and respectfully request allowance of such claims.

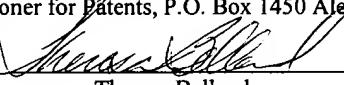
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Respectfully submitted,

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